

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Christopher KEITH Serial No.: 09/802,169
Filed: March 8, 2001 Confirmation No.: 1150
Art Unit: 2165 Examiner: Clement B. Graham
Title: AUTOMATED ORDER BOOK WITH CROWD PRICE IMPROVEMENT

APPEAL BRIEF

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
OCT 31 2005
Technology Center 2100

RECEIVED
2005 OCT 28 PM 2:16
BOARD OF PATENT APPEALS
AND INTERFERENCES

Dear Board:

The Notice of Appeal in this case was filed on August 26, 2005. This Appeal Brief is due on October 26, 2005.

(1) REAL PARTY IN INTEREST

The real party in interest is Stikine Technology, LLC, 2215-B Renaissance Drive, Suite 5, Las Vegas, Nevada 89119.

RECEIVED
OIPE/IAP

(2) RELATED APPEALS AND INTERFERENCES

None.

NOV 02 2005

(3) STATUS OF CLAIMS

Claims 1-22 and 24-30 are pending in this application. All of these claims stand rejected, and all are being appealed.

(4) STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1, 4, 11, 18 and 24 are independent.

Claims 18 and 24 are from the viewpoint of a market process that interacts with a plurality of trading processes, and are directed to price discovery (claim 18) and trading (claim 24).

CERTIFICATE OF MAILING

RECEIVED
2005 OCT 28 PM 2:16
BOARD OF PATENT APPEALS
AND INTERFERENCES

Claim 1 is from the viewpoint of a trading process that interacts with a market process, where the trading process generally is not one of the plurality of trading processes, and is directed to requesting price improvement from the plurality of trading processes.

Claims 4 and 11 are from the viewpoint of a trading process that interacts with a market process, where the trading process is one of the plurality of trading processes, and are directed to improving a book price (claim 4), and improving a proposed pairing price (claim 11).

Fig. 1 shows computer system 5 that functions as a platform for market programs and trading programs to interact (page 4, lines 21-24). In the terminology of the instant specification, a market program is referred to as an order umpire (oU) (page 5, lines 20-26; see Fig. 1) while a trading program is referred to as an order ELF (oE) (page 5, lines 15-19; see Fig. 1).

An umpire publishes its rules and ELF's either agree to those rules by registering with that umpire, or they do not register. Registration with an umpire is required before an ELF can avail itself of the services of the umpire. (page 5, lines 27-29; Fig. 16 step 330 shows an ELF registering with an umpire)

An ELF may elect to join the "crowd" for an umpire (Fig. 28 step 706 shows an ELF joining the crowd for an umpire). An ELF crowd functions in a manner similar to crowds on trading floors. Crowd members take priority behind orders in an order book but otherwise have the time/place immediacy advantage of a floor such as ability to bid on "imbalances" at a price, and ability to interact with one another. (page 5, line 30 – page 6, line 2)

An order ELF registering with an umpire is a different procedure than an order ELF registering in the crowd for an umpire. An ELF must register with an umpire to interact with the umpire in any way, including registering in the crowd for the umpire. (page 73, lines 19-21)

At pages 117-118 of the specification, there are two use cases providing basis for the independent claims. Since the use cases are extensively annotated with references to specific elements of the Figures, they are set forth below; and then the independent claims are presented with citations to the lines of the use cases.

The first use case

Page 30, lines 4-18:

All umpires are assumed to have a book of orders. Any umpire that has a crowd may choose to support auction mode price discovery, either as a default or by request from an ELF. It

will be appreciated that some order processing methods are suitable for auction price discovery, such as book and superbook methods, while other order processing methods are not suitable for auction price discovery, such as periodic match methods.

When an order umpire is providing discovery with auction mode, the order umpire responds to price inquiries after an interval of up to a published delay time. During this delay time, the order umpire gives order ELF's registered in its crowd the opportunity to provide a better price than the book's price. If an order ELF in the crowd, referred to as a passive-side order ELF, provides a price better than the book's price, then the order ELF seeking discovery, referred to as an active-side order ELF, is obliged to take the price and is immediately paired with the passive-side order. Effectively, the crowd response is an order that was provoked by the active-side order ELF's auction mode discovery request. The active-side order ELF is not obliged to take the book's prices, unless the umpire has specified that if the umpire provides a price, the ELF must take the price.

The opportunity to provide a better price than the book's price is a price improvement opportunity.

Page 117, lines 5-25 (emphasis added):

Fig. 99 illustrates how an active-side order ELF, oE 10, a book umpire with a crowd, oU 30, and a crowd order ELF, oE 12, co-operate during auction mode discovery. In this example, oE 10 asks oU 30 for discovery with auction mode. oE 12 improves upon oU 30's book price, and oE 10 must take oE 12's price.

At step 4600, oE 10 receives an order from order room 70, see Fig. 21, step 410; Fig. 22, step 435; and Fig. 23, step 455, and at step 4605, creates a discover list, see Fig. 23, steps 470 and 520. As part of creating a discover list, at step 4610, oE 10 sends a discover request to order umpire 30, operative according to the superbook method, accompanied by an indication that oE 10 accepts auction mode. See Fig. 23, step 525, and Fig. 26, step 645.

At step 4620, oU 30 receives the discover request from oE 12. See Fig. 46, step 1040; Fig. 59, step 1202; Fig. 61, step 1218; and Fig. 62, step 5305. At step 4625, oU 30 gets its book prices, see Fig. 62, step 5310. *At step 4630, oU 30 notifies its crowd of registered order ELF's*

that a price improvement opportunity exists. The notice includes the discover request and the price(s) oU 30 proposes to provide in response to the discover request. See Fig. 62, step 5325.

At step 4640, oE 12 receives the price improvement opportunity notice from oU 30. See Fig. 21, step 415; Fig. 32, step 735; and Fig. 33, step 805. *At step 4645, oE 12 computes a bid price, and determines that its bid price improves upon oU 30's proposed price, see Fig. 35, step 815.* At step 4650, oE 12 sends its bid price to oU 30, see Fig. 35, step 820.

At step 4660, oU 30 treats oE 12's crowd response as an order, treats oE 10's discovery request as an order, and pairs oE 12's order with oE 10's order. See Fig. 62, step 5335 and Fig. 70, step 1390.

The second use case

Page 30, lines 21-27:

An umpire operating according to the superbook method will, when the order umpire is about to change to orders in its book to a new (worse) price, automatically notify its crowd of order ELF's, and each order ELF then decides whether it wants to provide a quantity of shares at an improved price for matching with the active contra side order. The superbook method is actually a combination of a book trading method and an auction trading method, with crowd auctions occurring to improve the price relative to the book's price. A superbook umpire may also support auction mode price discovery.

Page 118, lines 2-31 (emphasis added):

Fig. 100 illustrates how an active-side order ELF, oE 10, a superbook umpire, oU 30, a passive-side order ELF, oE 11, and a crowd order ELF, oE 12, co-operate during superbook execution.

At step 4700, oE 10 posts a market order that it has received from its order room to oU 30. A more detailed explanation of receiving a market order and posting the market order is provided for Fig. 98, steps 4000-4015. See Fig. 21, step 410; Fig. 22, step 435; Fig. 23, step 470; Fig. 24, step 545; and Fig. 28, step 710.

At step 4705, oU 30 receives the market order from oE 10. See Fig. 46, step 1040; Fig. 59, step 1205; and Fig. 73, step 1445. At step 4710, oU 30 gets the best orders from its book to

pair against the market order. See Fig. 65, step 1258. At step 4715, oU 30 asks the owners of the orders for affirmation of availability. See Fig. 65, step 1262; and Fig. 68, step 1287.

At step 4720, oE 11 receives the request for affirmation, checks the availability of the shares, see Fig. 21, step 415; Fig. 32, step 735; and Fig. 33, step 803, and affirms to oU 30 that the shares are available, see Fig. 34, step 833.

At step 4730, oU 30 pairs the passive side affirmed orders at the best price with the active side order, see Fig. 68, step 1264. At step 4735, oU 30 sends pairing reports, see Fig. 70, step 1407. At steps 4736 and 4737, oEs 10 and 11 respectively receive the pairing reports and forward the pairing reports to their order rooms; in this example, oE 10 and oE 11 are both owned by order room 70. *oU 30 notices that the price will change to fill the as yet unfilled active side order, and at step 4740, notifies its crowd of registered order ELF's that a price improvement opportunity exists, see Fig. 65, step 1270. The notice includes the amount of the market order left to fill and the price(s) oU 30 proposes to provide to fill the market order.* At step 4742, oU 30 gets the best book orders that will fill the active side order, see Fig. 65, step 1272.

At step 4745, oE 12 receives the price improvement opportunity notice from oU 30. See Fig. 21, step 415; Fig. 32, step 735; and Fig. 33, step 805. *At step 4750, oE 12 computes a bid price, and determines that its bid price improves upon oU 30's proposed price, see Fig. 35, step 815.* At step 4755, oE 12 sends its bid price to oU 30, see Fig. 35, step 820.

At step 4760, oU 30 integrates and prioritizes the crowd responses and the best book orders, see Fig. 65, step 1274.

Claim 18

Claim 18 recites a method of providing price discovery, comprising
automatically, via a computer (Fig. 1, system 5), notifying a crowd of trading processes registered (page 93, lines 3-7; Fig. 79) with a market process of an opportunity to improve upon a book price (page 118, lines 21-22),

automatically, via the computer or another computer, receiving a crowd price from the crowd (page 118, lines 29-30), and

automatically, via the computer or the other computer, providing the crowd price as a response when the crowd price is better than the book price (page 118, lines 30-31).

Claim 24

Claim 24 recites a method of facilitating trading, comprising:

automatically, via a computer (Fig. 1, system 5), notifying a crowd of trading processes registered (page 93, lines 3-7; Fig. 79) with a market process of a proposed pairing price (page 117, line 18),

automatically, via the computer or another computer, receiving a crowd price from the crowd (page 117, line 22), and

automatically, via the computer or the other computer, pairing with the crowd price when the crowd price is better than the proposed pairing price (page 117, lines 23-24).

Claim 1

Claim 1 recites a method of facilitating trading, comprising:

automatically, via a computer (Fig. 1, system 5), providing a price inquiry (the “discover request” at page 117, line 11, is an instance of the claimed “price inquiry”¹) to a market process having an order file (the “order book” at page 117 is an instance of the claimed “order file”), the market process also having a crowd of trading processes registered therewith (page 93, lines 3-7; Fig. 79), and

automatically, via the computer, requesting that the market process notify its crowd of a price improvement opportunity (the “indication that oE 10 accepts auction mode” at page 117, lines 12-13, serves as a request to notify the crowd of a price improvement opportunity, since the indication indicates that if one of the registered order ELF's offers an improved price relative the price that the market process would have provided based on its order book, oE 10 will take it (page 14, lines 9-17; page 60, lines 15-17); if oE 10 did not have to take the improved price, then

¹ System 5 includes market status board 75 that is a combined copy of all books of all order umpires. Trading processes (ELF's) can access market status board 75, but are limited to those portions of the combined book that were posted by market processes (umpires) at which they are registered. (page 7, lines 5-9). If the prices available at market status board 75 provide insufficient price discovery, then an ELF can request additional discovery from an umpire during the ELF's discovery phase (page 9, lines 24-31; Fig. 2 shows the ELF's discovery phase is followed by its action phase).

discover requests could be unfairly used to obtain information about un-public market liquidity in the crowd of registered trading processes).

Claim 4

Claim 4 recites a method of providing a crowd price, comprising:

automatically, via a computer (Fig. 1, system 5), receiving notice at a trading process registered (page 93, lines 3-7; Fig. 79) as being the crowd of a market process of an opportunity to improve upon a book price (page 117, line 19; page 118, line 26),

automatically, via the computer or another computer, determining whether to improve upon the book price (page 117, lines 20-21; page 118, lines 27-28), and

automatically, via the computer or the other computer, providing the crowd price that improves the book price when the determination is positive (page 117, line 22; page 118, line 29).

Claim 11

Claim 11 recites a method of providing a crowd price, comprising:

automatically, via a computer (Fig. 1, system 5), receiving notice at a trading process registered (page 93, lines 3-7; Fig. 79) as being the crowd of a market process of a proposed pairing price (page 117, line 19; page 118, line 26),

automatically, via the computer or another computer, determining whether to improve upon the proposed pairing price (page 117, lines 20-21; page 118, lines 27-28), and

automatically, via the computer or the other computer, providing the crowd price that improves the proposed pairing price when the determination is positive (page 117, line 22; page 118, line 29).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

In the Final Office Action dated February 24, 2005, claims 1-30 [sic, should be 1-22 and 24-30] were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,297,032 (Trojan). No other claim rejections exist.

(7) ARGUMENT

For the reasons discussed below, claims 1-22 and 24-30 are patentable over Trojan, and allowance of these claims is requested.

Trojan is directed to a workstation for a human OTC trader communicating with the NASDAQ system. *Trojan expects that the human trader using the workstation decides how to trade.*

The trader workstation is simply a tool for presenting information to a human trader and then conveying the human trader's order to the NASDAQ system. It is fundamental to Trojan that a human decides how to trade, and so Trojan plainly teaches away from a trading process that makes trading decisions on its own, according to its rules.

Trojan explains that NASDAQ is a computer market wherein members trade as agents for their customers and make markets in specific securities themselves (column 1, lines 33-37). The system described in Trojan supports the trading function, not the market making function (column 3, lines 50-53). Since Trojan teaches that human members serve as dealers that make markets, Trojan plainly teaches away from a market process that makes decisions on its own, according to its rules.

Claims 1-3 are not anticipated by Trojan

Trojan fails to show or even suggest a market process also having a crowd of trading processes registered therewith, as required by claim 1.

Trojan fails to show or suggest requesting that the market process notify its crowd of a price improvement opportunity, as required by claim 1.

Since Trojan lacks two (2) of the features explicitly recited in claim 1, claim 1 is not anticipated by Trojan.

Claims 2-3, in depending from claim 1, incorporate all of its features and are not anticipated by Trojan for the reasons discussed above.

At page 2 of the Final Office Action, the Examiner stated,

As per claim 1, Trojan discloses ... automatically via a computer providing a price (i.e., "bid an ask price" inquiry to a market process having an order file, the market process also having a crowd of trading process registered (i.e., "member dealers" see column 3

lines 50-68) therewith and automatically via a computer requesting that the market process notify its crowd (i.e, "dealers") of a price improvement opportunity.

As best as the above is understood, the Examiner first asserts that Trojan's member dealers correspond to a market process having a crowd of trading processes registered therewith, then asserts that the members dealers correspond to the trading processes themselves.

The Examiner is incorrect. Trojan's NASDAQ members are humans, not computer processes. Even if the Examiner were to change his rejection to an obviousness rejection under 35 USC 103, and assert that a trading process is obvious over a human trader, and a market process is obvious over a human dealer, Trojan still fails to show or suggest the specifically claimed registering in the crowd, as distinct from registering for a market. Since Trojan's member dealers do not have a registered crowd of traders, it is not possible for the member dealers to provide anything, such as a price improvement opportunity, thereto.

Claims 4-17 are not anticipated by Trojan

Trojan fails to show or even suggest a trading process registered as being the crowd of a market process, as required by each of claims 4 and 11.

Trojan fails to show or even suggest receiving notice at of an opportunity to improve upon a price, as required by each of claims 4 and 11.

Trojan fails to show or even suggest automatically, via the computer or another computer, determining whether to improve upon the book price, as required by each of claims 4 and 11.

Trojan fails to show or even suggest automatically, via the computer or the other computer, providing the crowd price that improves the book price when the determination is positive, as required by each of claims 4 and 11.

Since Trojan lacks four (4) of the features explicitly recited in each of claims 4 and 11, each of claims 4 and 11 is not anticipated by Trojan.

Claims 5-10 and 12-17, in depending from claims 4 and 11, respectively, incorporate all of the features of their parent claim and are not anticipated by Trojan for the reasons discussed above.

At page 2 of the Final Office Action, the Examiner stated,

As per claim 4, Trojan discloses ... automatically via a computer receiving notice at a trading process registered (i.e, "member dealers") as being a crowd (i.e, "dealers") of market process of an opportunity to improve upon a book price, automatically via a computer or other computer determining whether to improve upon the book price, and automatically via a computer or another computer providing the crowd price that improves the book price when the determination is positive. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

Trojan's abstract is as follows:

A work station for use by a trader of securities on an established market. The work station is integrated into a network of competing market makers for a plurality of securities for trading. A centralized database provides a feed of data on current market events for the securities, including price and transaction data. The work station is specifically programmed to receive the feed of data from the database and convert this datastream into a form conducive to enhanced trading. Seven separate applications permit the trader to track the market, select securities, bid and ask pricing, market direction and market depth. Traders equipped with the workstation are capable of entering transactions with more complete and copious knowledge about the extant market.

Trojan's column 3 lines 50-65 are:

First briefly in overview, the present invention is directed to a specifically programmed data processing work station used to support an OTC trader in the performance of select securities transactions. The work station is integrated into a network supplying on-line access to a database of securities related information managed by an external organization, such as NASDAQ. Taking a hierarchial view of the integrated network, the process begins at the remote database, which is continuously updated with trade related information. The remote database as operated by NASDAQ is in communication with various trading organizations that are member dealers. A communication link between the member dealers and NASDAQ is established providing real time access to the database for purposes of

retrieving continuously updated information and entering transactions.

Trojan's column 4 lines 5-40 are:

The individual workstations are provided on the trading floor and used by traders to review current market conditions, as represented by the stream of NASDAQ generated data, and the entry of transaction requests by the trader. To support both of these functions, the workstation is programmed with seven primary applications and three ancillary support programs. The primary applications are labeled as follows:

1. LEVEL 2/3 (two windows);
2. COMPOSITE;
3. TICKER (two windows);
4. SelectNet; and
5. UNSOLICITED MESSAGES.

The three ancillary program services are as follows: interactive; hot key and configuration matrix.

Finally, the workstation includes the communications package for interaction with the file servers, and further communication with other OTC services, such as SelectNet, ACT, SOES, etc. The above applications are processed in the workstation by addressing and updating information stored in two primary files. The first file is what is known as the traders book and provides detailed information for each security that the trader using that particular workstation is involved in tracking. The information on the securities will include current bid and ask price information as recently updated pursuant to the link with the on-line database, a listing of the organizations that are making markets in the particular securities and information regarding the involvement of the organization represented by that trader. The second file is directed to the structure and detail provided in the window display associated with each application. The information stored in this file will dictate how the on-line data regarding the various securities is presented and includes color, symbolic representations, fonts, pop-up menus, etc.

As best as the above is understood, the Examiner asserts that Trojan's member dealers correspond to trading processes.

The Examiner's assertion makes no sense. A human member dealer would at most *suggest* a market process, not a trading process. As explained above, Trojan fails to show or suggest the specifically claimed crowd of trading processes, and further fails to show or suggest the specifically claimed price improvement opportunity.

Trojan also fails to show or suggest the specifically claimed “book price” since Trojan is silent as to how the member dealers arrive at their bid-offer price postings; one of ordinary skill in the art would understand that the member dealers are creating price postings based on their intuitive sense of the market.

Claims 18-22 are not anticipated by Trojan

Trojan fails to show or even suggest a crowd of trading processes registered with a market process, as required by claim 18.

Trojan fails to show or even suggest opportunity to improve upon a book price, as required by claim 18.

Trojan fails to show or even suggest receiving a crowd price from the crowd, as required by claim 18.

Trojan fails to show or even suggest providing the crowd price as a response when the crowd price is better than the book price, as required by claim 18.

Since Trojan lacks four (4) of the features explicitly recited in claim 18, claim 18 is not anticipated by Trojan.

Claims 19-22, in depending from claim 18, incorporate all of its features and are not anticipated by Trojan for the reasons discussed above.

The Examiner’s position regarding claim 18 is similar to that regarding claim 4. Unfortunately, as discussed above, the Examiner merely copies the claim language but does not even try to specifically read the claim language on Trojan.

Claims 24-30 are not anticipated by Trojan

Trojan fails to show or even suggest a crowd of trading processes registered with a market process, as required by claim 24.

Trojan fails to show or even suggest notifying a crowd of trading processes of a proposed pairing price, as required by claim 24.

Trojan fails to show or even suggest receiving a crowd price from the crowd, as required by claim 24.

Trojan fails to show or even suggest pairing with the crowd price when the crowd price is better than the proposed pairing price, as required by claim 24.

Since Trojan lacks four (4) of the features explicitly recited in claim 24, claim 24 is not anticipated by Trojan.

Claims 25-30, in depending from claim 24, incorporate all of its features and are not anticipated by Trojan for the reasons discussed above.

The Examiner's position regarding claim 24 is similar to that regarding claim 4. Unfortunately, as discussed above, the Examiner merely copies the claim language but does not even try to specifically read the claim language on Trojan.

(8) CLAIMS APPENDIX

The claims were last modified in the Amendment mailed November 22, 2004, and are set forth below:

1 (amended). A method of facilitating trading, comprising:
automatically, via a computer, providing a price inquiry to a market process having an order file, the market process also having a crowd of trading processes registered therewith, and
automatically, via the computer, requesting that the market process notify its crowd of a price improvement opportunity.

2 (original). The method of claim 1, further comprising trading at a price provided by the crowd.

3 (original). The method of claim 1, wherein the automatically providing and requesting are performed by a trading process.

4 (amended). A method of providing a crowd price, comprising:
automatically, via a computer, receiving notice at a trading process registered as being the crowd of a market process of an opportunity to improve upon a book price,

automatically, via the computer or another computer, determining whether to improve upon the book price, and

automatically, via the computer or the other computer, providing the crowd price that improves the book price when the determination is positive.

5 (original). The method of claim 4, wherein the determining is in accordance with an order processing methodology.

6 (original). The method of claim 5, wherein the order processing methodology is represented in a decision table.

7 (original). The method of claim 4, wherein the determining includes requesting an instruction from a user.

8 (original). The method of claim 4, further comprising automatically registering as part of a crowd to receive the price improvement opportunity notice.

9 (original). The method of claim 8, wherein the automatically registering occurs with a market process.

10 (original). The method of claim 4, wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process.

11 (amended). A method of providing a crowd price, comprising:
automatically, via a computer, receiving notice at a trading process registered as being the crowd of a market process of a proposed pairing price,
automatically, via the computer or another computer, determining whether to improve upon the proposed pairing price, and

automatically, via the computer or the other computer, providing the crowd price that improves the proposed pairing price when the determination is positive.

12 (original). The method of claim 11, wherein the determining is in accordance with an order processing methodology.

13 (original). The method of claim 12, wherein the order processing methodology is represented in a decision table.

14 (original). The method of claim 11, wherein the determining includes requesting an instruction from a user.

15 (original). The method of claim 11, further comprising automatically registering as part of a crowd to receive the proposed pairing price notice.

16 (original). The method of claim 15, wherein the automatically registering occurs with a market process.

17 (original). The method of claim 11, wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process.

18 (amended). A method of providing price discovery, comprising:
automatically, via a computer, notifying a crowd of trading processes registered with a market process of an opportunity to improve upon a book price,
automatically, via the computer or another computer, receiving a crowd price from the crowd, and

automatically, via the computer or the other computer, providing the crowd price as a response when the crowd price is better than the book price.

19 (original). The method of claim 18, wherein the automatically providing occurs in response to a price inquiry according to a published delay time.

20 (original). The method of claim 18, wherein when the crowd price is provided as a response, a pairing must occur.

21 (original). The method of claim 18, further comprising receiving a price inquiry specifying that the response to the price inquiry should occur after automatically notifying the crowd of the price improvement opportunity.

22 (original). The method of claim 18, wherein the automatically notifying, receiving and providing are performed by a market process.

23 (canceled).

24 (amended). A method of facilitating trading, comprising:
automatically, via a computer, notifying a crowd of trading processes registered with a market process of a proposed pairing price,

automatically, via the computer or another computer, receiving a crowd price from the crowd, and

automatically, via the computer or the other computer, pairing with the crowd price when the crowd price is better than the proposed pairing price.

25 (original). The method of claim 24, wherein the automatically pairing occurs according to a published delay time.

26 (original). The method of claim 25, wherein the published delay time is less than one second.

27 (original). The method of claim 25, wherein the published delay time is greater than one second.

28 (original). The method of claim 24, further comprising determining that a next pairing will be at the proposed pairing price different than a previous pairing price.

29 (original). The method of claim 24, wherein the proposed pairing price is the best price from a file of stored orders.

30 (original). The method of claim 24, wherein the automatically notifying, receiving and pairing are performed by a market process.

31 (canceled).

(9) EVIDENCE APPENDIX

None.

(10) RELATED PROCEEDINGS APPENDIX

None.

Respectfully submitted,

Date: October 25, 2005

Brenda Pomerance

Brenda Pomerance

Address:
Law Office of Brenda Pomerance
260 West 52 St. Ste. 27B
New York, NY 10019
voice 212 245-3940